



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**Inspection, Repair, and Maintenance; Periodic Inspection of Commercial Motor Vehicles; Acceptance of Mexico's NOM-068-SCT-2-2014 Inspection Program**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice on periodic inspection programs.

**SUMMARY:** The FMCSA announces its acceptance of the Norma Oficial Mexicana ((NOM) or Official Mexican Standard) concerning the periodic inspection (PI) of commercial motor vehicles (CMVs). The Agency has reviewed NOM-068-SCT-2-2014 (NOM 68) and determined that it should be added to the list of programs which are comparable to, or as effective as, the Federal PI requirements contained in the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA's acceptance of NOM 68 means that Mexico-domiciled motor carriers operating in the United States must ensure that their CMVs are inspected annually as required by the Secretaría de Comunicaciones y Transportes (SCT). The motor carrier must retain a copy of the inspection report and a sticker/decal must be affixed to the vehicle in order to satisfy the PI requirements in the United States. These motor carriers will no longer have the option of relying on their employees to conduct inspections of the CMVs the carrier controls, using commercial garages for such inspections, or passing a roadside inspection based on criteria published by the Commercial Motor Vehicle Safety Alliance (CVSA) to comply with the periodic inspection requirements at 49 CFR part 396.

**DATES:** This action is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. NOM-68 inspection decals issued on or after October 1, 2015, will be accepted as proof of a periodic during roadside inspections and investigations conducted on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Mr. Marcelo Perez, North American Borders Division, MC-ESB, (512) 916-5440, Federal Motor Carrier Safety Administration, 903 San Jacinto Blvd., Suite 1100, Austin, TX 78701. Office hours are from 7:45 a.m. to 4:15 p.m., CDT, Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 210 of the Motor Carrier Safety Act of 1984 (49 U.S.C. 31142) (the Act) requires the Secretary of Transportation to prescribe standards for annual or more frequent inspection of CMVs unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection. On December 7, 1988, in response to the Act, the Federal Highway Administration (FHWA), the agency within the Department of Transportation responsible for motor carrier safety until 1999, published a final rule amending 49 CFR part 396 of the FMCSRs (53 FR 49402). The final rule required CMVs operated in interstate commerce to be inspected at least once a year. The inspection was to be based on Federal inspection standards, or a State inspection program determined by the FHWA, FMCSA's predecessor agency, to be comparable to, or as effective as, the Federal standards. Accordingly, if FHWA decided that a State's PI program was comparable to, or as effective as, the requirements of part 396, then the motor carrier had to ensure that all of its CMVs which are required by that State to be inspected through the State's inspection program were inspected. If a State did not have such a program, the motor carrier was responsible for ensuring its CMVs are inspected using one of the alternatives included in the final rule.

On March 16, 1989, the FHWA published a notice in the Federal Register that requested States and other interested parties to identify and provide information on the CMV inspection programs in their respective jurisdictions (54 FR 11020). Upon review of the information submitted, the FHWA published a list of State inspection programs that were

determined to be comparable to the Federal PI requirements (54 FR 50726, December 8, 1989). This initial list included 15 States and the District of Columbia. The list was revised on September 23, 1991, to include the inspection programs of the Alabama Liquefied Petroleum Gas (LPG) Board, California, Hawaii, Louisiana, Minnesota, all of the Canadian Provinces, and the Yukon Territory (56 FR 47982).

On November 27, 1992, the list was revised to include the Wisconsin bus inspection program (57 FR 56400). On April 14, 1994, the list was revised to include the Texas CMV inspection program (59 FR 17829). The list was revised on November 7, 1995, to include the Connecticut bus inspection program (60 FR 56183). On February 19, 1998, the Ohio inspection program for church buses was added to the list (63 FR 8516), with a notice announcing FMCSA's acceptance of certain enhancements to the program on June 18, 2001 (66 FR 32863). And on October 22, 2008, the list was revised to include the Massachusetts CMV inspection program (73 FR 63040).

#### **FMCSA Determination: Official Mexican Standard, NOM 68**

On January 19, 2015, the SCT of Mexico published its Official Mexican Standard, NOM-68, in the Official Gazette, Mexico's equivalent of the Federal Register. NOM-68 addresses Federal inspection standards for CMVs in Mexico. Beginning May 19, 2015, Mexico-domiciled motor carriers must take their vehicles to an SCT-approved inspection center for a mandatory vehicle inspection. The inspections must be performed once every year, and on the months set on the Inspection Calendar.

FMCSA has reviewed Mexico's pass-fail criteria for the specific vehicle components and systems examined as during the mandatory vehicle inspection and determined that Mexico's inspection program is comparable to, or as effective as, FMCSA's requirements. The Agency compared the pass-fail requirements of Appendix G to the Federal Motor Carrier Safety Regulations (i.e., the U.S. periodic inspection standards), which includes

the 13 vehicle systems and components listed below with the list of vehicle systems and components included in NOM 68.

1. Brake system;
2. Coupling devices;
3. Exhaust system;
4. Fuel system;
5. Lighting devices;
6. Safe loading;
7. Steering mechanism;
8. Suspension;
9. Frame;
10. Tires;
11. Wheels and rims;
12. Windshield glazing; and,
13. Windshield wipers.

NOM-68 is organized into 79 sections, with multiple sections covering each of the 13 areas in Appendix G. In some instances, NOM-68 covers the requirements in greater detail and others Mexico's inspection standards cover equipment which is not addressed in the FMCSRs.

While Appendix G does not include the same level of detail as NOM 68, 49 CFR part 393 provides many of those requirements in detail comparable to that of NOM-68. Therefore, NOM 68 provides an annual inspection standard that requires all the parts and accessories that must be installed on CMVs to be in proper working order in order to pass the inspection.

FMCSA acknowledges that Mexico's compliance date for certain vehicle safety systems and components, such as antilock braking systems (or ABS), differs from the U.S. requirements. However, the Agency does not believe the differences in the compliance dates

for such systems is a sufficient basis for considering Mexico's annual inspection standards to be substantively different. Mexico-domiciled motor carriers are subject to the same requirements as U.S.- and Canada-domiciled carriers operating on U.S. public roads with regard to the requirements of 49 CFR part 393. This means the presence of an annual inspection decal would not provide relief from the requirements of part 393.

Mexico's mandatory annual inspection requirements cover most of the types of CMVs subject to FMCSA's periodic inspection regulations, which includes passenger-carrying vehicles designed to transport 16 or more passengers (including the driver) and property-carrying vehicles with a gross weight, gross vehicle weight rating, or gross combination weight rating of 10,001 pounds or more. Therefore, both the inspection criteria for the vehicle components and safety systems, and the types of vehicles required to be inspected are comparable to FMCSA's requirements.

For CMVs that are subject to FMCSA's periodic inspection requirements but excepted from the NOM 68 requirements, the motor carrier may continue to rely upon the options allowed under 49 CFR 396.17. FMCSA will work with the government of Mexico and the Commercial Vehicle Safety Alliance to provide detailed guidance on the specific vehicles subject to NOM 68 requirements to ensure uniform and consistent enforcement of § 396.17 (and the compatible State requirements adopted in accordance with 49 CFR part 350 concerning the Motor Carrier Safety Assistance Program) during roadside inspections of Mexico-domiciled vehicles operating in the United States.

It should be noted that in accepting the Mexico's program, FMCSA also accepts the recordkeeping requirements associated with the inspection program. Upon successful completion of Mexico's inspection, a report is created which identifies the vehicle, inspector, and the status of the inspection. In addition to the report, a program inspection sticker decal

indicating that the vehicle has passed the inspection will be affixed to the vehicle's windshield.

### **Relationship Between FMCSA's Decision Concerning Periodic Inspection and the Enforcement of the Requirements Under 49 CFR Part 393**

FMCSA notes that its acceptance of Mexico's PI program does not in any way alter the enforcement of the safety requirements under 49 CFR part 393 concerning vehicle parts and accessories necessary for safe operations. All interstate motor carriers operating CMVs in the United States, including Canada- and Mexico-domiciled motor carriers, must ensure that their CMVs meet the applicable requirements under 49 CFR part 393 regardless of whether the vehicle has passed a PI. And Part 393 includes cross-references to various Federal Motor Vehicle Safety Standards (FMVSSs) established by the National Highway Traffic Safety Administration and applicable to vehicle manufacturers. Through these cross-references, FMCSA holds motor carriers responsible for ensuring that vehicles manufactured on or after the effective dates of the NHTSA standards are maintained to keep the safety equipment and features installed by the manufacture operable.

While manufacturers building CMVs designed and sold for use in Canada and Mexico are not required to meet the FMVSSs, FMCSA requires that the motor carriers operating these vehicles in the United States meet the same safety requirements applicable to domestic motor carriers. And, although the effective date for certain vehicle safety requirements such as antilock braking systems under NOM 68 and Canada's rules may differ from the effective date for the U.S. requirements, vehicles manufactured on or after the effective dates listed in the FMVSSs, and cross-referenced in part 393, must meet FMCSA's requirements when operating in the United States. These vehicles are subject to roadside inspections while operating in the United States and violations of these 49 CFR part 393 requirements may be cited on the inspection report.

Acceptance of periodic inspection decals from Canada or Mexico simply means that these carriers would not be cited for violations of 49 CFR 396.17. As noted above, this decision does not constitute an exception from any of the applicable requirements under 49 CFR part 393. Therefore, today's decision in no way compromises safety.

Although passing a roadside inspection is another option under the current regime, FMCSA published a notice of proposed rulemaking on October 7, 2015 (80 FR 60592), which would, in response to a petition for rulemaking from the Commercial Vehicle Safety Alliance (CVSA), eliminate this option for all motor carriers subject to the FMCSRs.

### **Jurisdictions With Equivalent Periodic Inspection Programs**

The following is a complete list of States with inspection programs that FMCSA has determined are comparable to, or as effective as, the Federal PI requirements.

- Alabama (LPG Board),
- California,
- Connecticut,
- District of Columbia,
- Hawaii,
- Illinois,
- Louisiana,
- Maine,
- Maryland,
- Massachusetts,
- Michigan,
- Minnesota,
- New Hampshire,

- New Jersey,
- New York,
- Ohio,
- Pennsylvania,
- Rhode Island,
- Texas,
- Utah,
- Vermont,
- Virginia,
- West Virginia,
- Wisconsin.

Please note that since the list was originally established, two States have been removed. Arkansas no longer has a PI program for buses comparable to, or as effective, as the Federal PI program. And Oklahoma repealed its inspection requirements. Therefore, these States are no longer listed.

In addition to the States listed above, FMCSA accepts the inspection programs of the 10 Canadian Provinces (Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan) and the Yukon Territory, and with today's notice, Mexico's NOM 68 program, as comparable to, or as effective as, the Federal PI requirements.

All other jurisdictions either have no PI programs for CMVs or their PI programs have not been determined by the FMCSA to be comparable to, or as effective as, the Federal PI requirements. Should any of these jurisdictions wish to establish a program or modify their



programs in order to make them comparable to the Federal requirements, the State should contact the appropriate FMCSA division office.

**List of Subjects**

Highway safety, Highways and roads, Motor carriers, Motor vehicle maintenance, Motor vehicle safety, Reporting and recordkeeping requirements.

**Authority:** 49 U.S.C. 31132, 31136, 31142, 31502, and 31504; 49 CFR 1.87.

Issued on: March 9, 2016.

T. F. Scott Darling, III,  
Acting Administrator.

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